REMARKS

In the Advisory Action of February 9, 2010, the Examiner states that Applicant's amendments (in response to the Final Office Action of 11/24/2009) materially change the scope of the claims. The Examiner then asserts that Applicant's claims appear "too broad in view of the prior art of record" and that "the 'transferring' step still appears elusive." Applicant respectfully disagrees with these assertions. However, in order to expedite prosecution, Applicant presents amendments to clarify the claims and the distinctions over the cited art.

The transferring step

Applicant amends independent claims 1 and 16-17 to positively recite "savings amount is transferred to said user savings account" and "determining, in response to said savings amount being transferred, a plurality of penalties . . . ."

Based upon

Applicant amends independent claims 1 and 16-17 to recite that, to minimize penalties, the payment hierarchy is created as a function of at least three inputs, i) the "savings amount," ii) the "plurality of penalties" and iii) at least one of a list of three other inputs. Applicant submits that these claims apprise one of skill in the art of what Applicant's invention is; especially when the claims are read in light of the originally filed specification.

Prioritize savings first

Applicant amends independent claims 1 and 16-17 to recite the savings amount being transferred first and then performing the analysis to determine the payment hierarchy that minimizes penalties. In particular, "wherein said savings amount is transferred to said user savings account; determining, ... **in response to said savings amount being transferred**, a plurality of penalties by analyzing, ..." (Claim 1, emphasis added). Thus, in the present claims, the first step in determining the payment hierarchy that minimizes penalties **only occurs if** the savings amount is transferred.

<u>Chevreau</u>

In the Final Office Action of 11/24/2009, the Examiner rejected the independent claims under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen, U.S. Pub. No. 2002/0123949 ("VanLeeuwen") in view of non-patent literature document entitled "Pay Yourself First Still Works" by Jonathan Chevreau ("Chevreau") in view of Saylors et al, U.S. Pub. No. 2004/0111370 ("Saylors") and further in view of Davis, U.S. Pub. No. 2004/0193491 ("Davis"). Applicant acknowledges that in Chevereau, the author summarizes the book, *The Richest Man in Babylon* by George S. Clason, as stating "[n]o matter how little gold one earned, Akrad preached the necessity of 'paying yourself first' by setting aside at least one in every 10 gold pieces earned." (Chevereau, Abstract). In Chevereau, the author also submit's that the central recommendation of the book *Smart Couples Finish Rich* by David Bach is, "pay-yourself-first at least 10%." (Chevereau, Abstract). Applicant asserts that such a statement means that one should make savings the first and highest priority. Applicant submits that Applicant is <u>not</u> attempting to claim the simple philosophy of saving money. Rather, as recited in independent claim 1 (emphasis added) and as similarly recited in independent claims 16-17, Applicant presents specific systems and methods for prioritizing savings **and** minimizing penalties associated with outstanding debts:

> **determining ...a savings amount for transferring**
> ...wherein said savings amount is transferred;
> **determining,** by said computer-based system and **in response to said savings amount being transferred, a plurality of penalties ...**
> determining ... **in response to said determining said plurality of penalties, a payment hierarchy to minimize said plurality of penalties,** said payment hierarchy being a function of said savings amount, said plurality of penalties and ...

Thus, as stated in the Reply to the Final Office Action, none of the other cited references (including Chevereau) cure the deficiencies of VanLeeuwen, Lahre and Hilton.

VanLeeuwen discloses a method for "analyzing a user's finances and providing a plan for debt reduction" (Abstract). The VanLeeuwen method includes acquiring financial data, classifying financial transactions into budget categories, adjusting budgets, listing expense reducing items to a user, receiving user input regarding which expense reducing items to accept.

VanLeeuwen discloses determining a budget margin based upon the accepted expense reducing items and paying down user's debts with the budget margin (Paras. 0008-0009).

Significantly, VanLeeuwen fails to disclose making a payment to savings regardless of debt obligations. Instead, VanLeeuwen is directed toward "determining a financial debt that should be paid down first to reduce aggregate financial debt" and "allow[ing] the plurality of debts to be paid off in a reduced amount of time" (Para. 0010). In fact, **VanLeeuwen's focus on debt prioritization teaches away from prioritizing savings first.** For instance, VanLeeuwen's discloses, "[i]n contrast to the prior art, this system uses an effective method to select the order in which debts should be paid off" (Para. 0041) and "debt reduction logic considers the original principal amount, term length of debt, <u>and finally</u> the interest rate on the debt. These factors are combined and preferably measured against the baseline amount of principal owing and allows the appropriate debt to be selected and paid off first" (Para. 0043, emphasis added, internal references removed).

Lahre discloses "a method and system for obtaining customer financial data and producing purchase recommendations which maximize the customer's cash inventory..." (Abstract). The method also enables the customer to receive reports, including recommendations regarding the purchase recommendations, "without having to do any data manipulation, programming, or calculations." (Abstract). Additionally, Lahre discloses performing mathematical operations to maximize, or minimize, defined objective functions; e.g. to maximize cash flow.

Significantly, while Lahre discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Lahre **fails to disclose making a payment to savings <u>prior to</u> performing the optimization method to maximize cash flow.** Instead, the Lahre method simply optimizes in order to maximize the cash flow available for the business. As such, Lahre merely teaches automating known optimization methods and facilitating efficient distribution of the results to decision makers.

Like Lahre, Hilton focuses on optimizing cash flow or "cash on hand." Hilton discloses a system that implements a genetic algorithm to "determine a plan for payment of payment obligations in accounts payable." (Abstract). Hilton discloses considering the timing and

amount of payments made to various accounts payable accounts in light of other objectives such as daily cash on hand, tax impacts, late payment penalties, postage fees. (Para. 0007).

Significantly, while Hilton discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Hilton **fails to disclose making a payment to savings <u>prior to</u> performing the optimization method to maximize cash flow.** Instead, the Hilton method simply optimizes in order to maximize the cash on hand. As such, Hilton merely applies a known optimization heuristic (genetic algorithm) to the problem of maximizing cash on hand.

Applicant therefore respectfully submits that independent claims 1 and 16-17 are allowable over the cited references. Dependent claims 2-4, 6-7, 9, and 11-13 depend from independent claim 1, so dependent claims 2-4, 6-7, 9, and 11-13 are allowable over the cited references for the reasons set forth above, in addition to their own unique features.
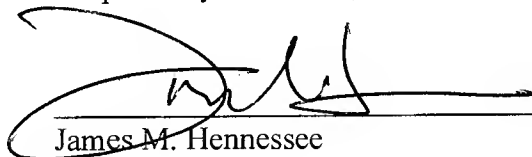
<u>Conclusion</u>

In view of the above remarks, Applicant respectfully submits that all pending claims are allowable over the cited references. Reconsideration of the application is respectfully requested. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814, including any required extension fees. **<u>This statement does not authorize charge of the Issue Fee</u>.**

Respectfully submitted,

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